

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

FUEL SPRING LLC,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 4:24-cv-00878
	§	
ATLANTIC CASUALTY	§	
INSURANCE COMPANY,	§	
<i>Defendant.</i>	§	

**DEFENDANT ATLANTIC CASUALTY INSURANCE COMPANY'S
NOTICE OF REMOVAL**

TO THE HONORABLE U.S. DISTRICT COURT:

Defendant Atlantic Casualty Insurance Company (Atlantic Casualty) files this Notice of Removal pursuant to 28 U.S.C. § 1441, and respectfully shows the Court as follows:

**I.
INTRODUCTION**

1. On August 14, 2024, Plaintiff Fuel Spring LLC filed a civil suit against Atlantic Casualty Insurance Company in the District Court of Erath County, Texas, same of which is styled and numbered *Fuel Spring LLC v. Atlantic Casualty Insurance Company*; Cause No. 24CVDC-00182; in the 266th Judicial District Court, Erath County, Texas (the Lawsuit). Atlantic Casualty timely files this Notice of Removal within 30 days from the date that it received service of Plaintiff's pleading. 28 U.S.C. § 1446(b), *i.e.*, the citation and original petition on or about August 21, 2024. Venue is proper in this district and division because

the 266th Judicial District Court of Erath County, Texas, is located in this district and division. 28 U.S.C. § 1441(a).

2. This action is removable because it is a civil action with complete diversity of citizenship between Plaintiff and Atlantic Casualty, and Plaintiff seeks monetary relief over \$75,000.00, exclusive of interest and costs. Hence, this Court possesses subject-matter jurisdiction over this action. 28 U.S.C. § 1332(a).

3. Atlantic Casualty is filing a copy of this Notice of Removal with the clerk of the 266th Judicial District Court of Erath County, Texas, where Plaintiff originally filed this action.

II. BACKGROUND

4. Atlantic Casualty issued to Plaintiff a commercial property insurance policy numbered M3600000101-1, effective June 1, 2022 to June 1, 2023 (Policy), insuring the property located at 721 East Road, Stephenville, Texas 76401 (Property).

5. This removed action is an insurance dispute between Plaintiff and Atlantic Casualty regarding first-party coverage for a reported April 26, 2023, wind/hailstorm event to Plaintiff's Property, allegedly causing damage to the Property. Upon receiving Plaintiff's notice of loss, Atlantic Casualty investigated the reported damage and retained Team One Adjusting Services, LLC (Team One) to conduct an inspection of Plaintiff's Property. Team One inspected the Property on or about June 5, 2023. Team One observed spatter marks during the inspection with no functional damage found to the roof.

Team One also observed pooling on the right and left flashing and cracks in the seam sealant due to natural thermal expansion and contraction. CoreLogic Hail report indicated that approximately 0.8 inch hail fell at the Property on the date of loss which was found to be consistent with the spatter markers found during the inspection. Team One determined the proximate cause of loss was moisture intrusion due to natural age and weathering from lack of maintenance to the metal roof. Based on Team One's findings, Atlantic Casualty retained an engineer from EFI Global, Inc. to inspect the Property on or about July 12, 2023. However, the inspection was not completed due to a large tarp on the roof.

6. On July 13, 2023, Atlantic Casualty sent the insured a Reservation of Rights letter advising an engineer was assisting in the investigation and reinspecting the Property. On July 31, 2023, Plaintiff's public adjusting company, 3 Point Adjusting LLC, sent a letter of representation to Atlantic Casualty. Steve Jenkins with 3 Point Adjusting LLC requested that Atlantic Casualty reinspect the Property.

7. On or about October 12, 2023, Landon Lewis, P.E., of EFI, attended a site examination and inspection of the roof of the building at the Property. Mr. Lewis noted several areas of the roof, east parapet wall and north exterior wall sustaining age-related deterioration. Per Mr. Lewis's report, water intrusion was caused by deterioration in various locations of the roof and north wall, but there was no damage outside of the building that would have contributed to water intrusion.

8. Based on Mr. Lewis's investigation, Atlantic Casualty sent a Declination of Coverage letter to Plaintiff.

9. Plaintiff disagrees with the coverage determination of the claim, and alleges breach of contract, Texas Insurance Code violations, breach of the duty of good faith and fair dealing, DTPA violations and common law fraud against Atlantic Casualty.

III. BASIS FOR REMOVAL

10. Removal is proper under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446 because Plaintiff's and Atlantic Casualty's citizenship is completely diverse and the amount in controversy exceeds \$75,000.

A. Plaintiff and Atlantic Casualty have diverse citizenship.

11. Plaintiff is a limited liability company with five members including: Manoj Bhandari, Suresh Prasad Rauniyar, Amit Shrestha, Bijay Raj Bhattarai, and Ramesh Gnawali.

- a. Manoj Bhandari is an individual who resides in Euless, Tarrant County, Texas. Manoj Bhandari has a Texas driver's license, which was issued in 2013, and identifies the home address as being located in Euless. Manoj Bhandari is registered to vote in Texas. Additionally, Manoj Bhandari owns at least one vehicle which is titled and registered in Texas. Therefore, Manoj Bhandari is a citizen of Texas. For diversity purposes, Manoj Bhandari is a citizen of Texas, and not of North Carolina.
- b. Suresh Prasad Rauniyar is an individual who resides in North Richland Hills, Tarrant County, Texas. Suresh Prasad Rauniyar has a Texas driver's license,

which was issued in 2024, and identifies the home address as being located in North Richland Hills. Prior to 2024, Suresh Prasad Rauniyar had a Texas driver's license, which was issued in 2014 and identified the home address as being located in Stephenville, Texas. Additionally, Suresh Prasad Rauniyar owns at least one vehicle which is titled and registered in Texas. Therefore, Suresh Prasad Rauniyar is a citizen of Texas. For diversity purposes, Suresh Prasad Rauniyar is a citizen of Texas, and not of North Carolina.

c. Amit Shrestha is an individual who resides in Arlington, Tarrant County, Texas. Amit Shrestha has a Texas driver's license, which was issued in 2015, and identifies a prior home address as being located in Euless, Texas. Amit Shrestha is registered to vote in Texas. Additionally, Amit Shrestha owns at least one vehicle which is titled and registered in Texas. Therefore, Amit Shrestha is a citizen of Texas. For diversity purposes, Amit Shrestha is a citizen of Texas, and not of North Carolina.

d. Bijay Raj Bhattarai is an individual who resides in Coppell, Dallas County, Texas. Bijay Raj Bhattarai has a Texas driver's license, which was issued in 2014, and identifies the home address as being located in Coppell. Bijay Raj Bhattarai is registered to vote in Texas. Additionally, Bijay Raj Bhattarai owns at least one vehicle which is titled and registered in Texas. Therefore, Bijay Raj Bhattarai is a citizen of Texas. For diversity purposes, Bijay Raj Bhattarai is a citizen of Texas, and not of North Carolina.

- e. Ramesh Gnawali is an individual who resides in Fort Worth, Tarrant County, Texas. Ramesh Gnawali has a Texas driver's license, which was issued in 2013, and identifies a prior home address as being located in Euless, Texas. Additionally, Ramesh Gnawali owns at least one vehicle which is titled and registered in Texas. Therefore, Ramesh Gnawali is a citizen of Texas. For diversity purposes, Ramesh Gnawali is a citizen of Texas, and not of North Carolina.
- f. Because all members of Fuel Spring LLC are citizens of Texas and Fuel Spring LLC's citizenship for diversity purposes is derived from the citizenship of all members, Fuel Spring LLC is a citizen of Texas and not a citizen of North Carolina.

12. Atlantic Casualty is a corporation whose citizenship is determined by both its place of incorporation and principal place of business. 28 U.S.C. § 1332(c)(1). Atlantic Casualty was incorporated in North Carolina, and maintains its principal place of business in Goldsboro, North Carolina. For diversity purposes, Atlantic Casualty is a North Carolina citizen. Atlantic Casualty is not a citizen of Texas.

B. The amount in controversy exceeds \$75,000.00.

13. Plaintiff asserts that it seeks monetary relief less than \$250,000. Ex. 3, Pl. Orig. Pet. ¶ 4. However, Plaintiff sent a demand to Atlantic Casualty dated June 4, 2024 which states that the demand after suit is commenced is \$184,572.96. Hence, the amount in controversy in this action, exclusive of costs and interest, exceeds the threshold for

diversity jurisdiction and removal. 28 U.S.C. § 1332(a); *Horton v. Liberty Mut. Ins. Co.*, 367 U.S. 348, 353 (1961); *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995).


IV. CONCLUSION

14. Per 28 U.S.C. § 1446(a), Atlantic Casualty submits the following documents with this notice of removal:

- 1) an index of all documents that clearly identifies each document and indicates the date that the document was filed in state court;
- 2) a copy of the docket sheet in the state court action; and
- 3) each document filed in the state court action, except discovery.

Atlantic Casualty has satisfied all procedural and statutory requirements to remove the Lawsuit to this federal court, and removal is proper. For these reasons, Atlantic Casualty Insurance Company respectfully requests that this Court remove this action from the 266th Judicial District Court of Erath County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division.

Respectfully submitted.



Sarah Sachs

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**Counsel for Defendant Atlantic Casualty
Insurance Company**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all known counsel of record as set forth below in compliance with the Federal Rules of Civil Procedure on September 13, 2024:

Katherine C. Hairfield
Shaun W. Hodge
THE HODGE LAW FIRM, PLLC
1301 Market Street
Galveston, Texas 77550
Counsel for Plaintiff Fuel Spring LLC

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shodge@hodgefirm.com

A handwritten signature in black ink, appearing to read "Sarah Sachs", is written over a horizontal line.

Sarah Sachs